

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**LANDMARK AMERICAN INSURANCE COMPANY,**

**Plaintiff,**

**v.**

**CIVIL ACTION NO. 1:22CV46  
(Chief Judge Kleeh)**

**INNOVATIVE INSURANCE SOLUTIONS LLC and  
EMPLOYERS INNOVATIVE NETWORK ACQUISITION LLC,**

**Defendant.**

**ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 23] AND  
GRANTING PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT [ECF NO. 12]**

On May 27, 2022, Plaintiff Landmark American Insurance Company ("Plaintiff") filed a Complaint in this action against Innovative Insurance Solutions, LLC, and Employers Innovative Network Acquisition LLC (together, "Defendants"). Thereafter, Plaintiff filed a motion for default judgment [ECF No. 12], and, pursuant to 28 U.S.C. § 636 and the local rules, the Court referred the motion to United States Magistrate Judge Michael J. Alois (the "Magistrate Judge") for consideration. The Magistrate Judge convened a hearing and on April 14, 2023, entered a Report and Recommendation ("R&R"), recommending that the Court grant the motion.

The R&R informed the parties that they had fourteen (14) days - plus an additional three (3) days for mailing - from the date of

service of the R&R to file "specific written objections, identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection." It further warned them that the "[f]ailure to file written objections . . . shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals." Innovative Insurance Solutions, LLC, and Employers Innovative Network Acquisition LLC accepted service of the R&R on April 18, 2023. See ECF Nos. 24, 25. To date, no objections have been filed.

When reviewing a magistrate judge's R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, "the Court may adopt, without explanation, any of the magistrate judge's recommendations" to which there are no objections. Dellarcirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Because no party has objected, the Court is under no obligation to conduct a de novo review. Accordingly, the Court reviewed the R&R for clear error. Upon careful review, and finding no clear error, the Court **ADOPTS** the R&R [ECF No. 23]. The motion

for default judgment is **GRANTED** [ECF No. 12]. The Clerk is **DIRECTED** to enter default judgment in Plaintiff's favor. Plaintiff is not obligated to either indemnify or defend Defendants in the Underlying Action (Case No. CC-24-2020-C-136, in the Circuit Court of Marion County, West Virginia) because of the applicable policy exclusions. Plaintiff shall not be awarded costs, expenses, and attorney's fees. This action is **DISMISSED WITH PREJUDICE** and **STRICKEN** from the Court's active docket.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record and any unrepresented parties.

**DATED:** May 8, 2023

*Tom S Klee*  
THOMAS S. KLEEH, CHIEF JUDGE  
NORTHERN DISTRICT OF WEST VIRGINIA